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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/691,965

10/24/2003

Ronald White

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EXAMINER

MARSH, STEVEN M

ART UNIT

PAPER NUMBER

3632

MAIL DATE

DELIVERY MODE

07/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/691,965

Applicant(s)

WHITE ET AL.

Examiner

Steven M. Marsh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4, 7, and 10-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

This is the fifth office action for U.S. Application 10/691,965 to White et al. on October 24, 2003. Claims 1, 2, 4, 7, and 10-13 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 7, and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,197,819 to Hughes in view of U.S. Patent 5,197,810 to Knowles. Hughes discloses a pole mounting structure with a ground sleeve (11) configured to be mounted in the ground (the ground is not claimed and the sleeve is configured to be mounted within a recessed portion of the ground) and a support member (41) mounted within the ground sleeve. There is a bracket (61) attachable to the pole and engageable with the support member (via support pin 83 shown in figure 2, which extends through 61 and 41 to interlock them together) to support the pole and inhibit rotation of the pole. The bracket has first and second protrusions (83) positioned to receive the support member therebetween. The bracket has a first piece and a second piece that are secured together around the pole and joined by fasteners located on opposite sides of the pole. The protrusions extend substantially below the upper surface of the support member such that they inhibit rotation of the pole. There is a

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collar (27) having an aperture (that receives the pole) and two engagement sections (47 and the portion above it) of different sizes. The collar can be positioned on a sports pole above the bracket such that at least one engagement section (47) is engageable with the ground sleeve. There is also a sign (or marker) attached to the first end (see Summary of Invention) of the pole.

Hughes does not disclose the pole as supporting a basketball at its first end, but does disclose the pole as supporting a marker at its first end. Knowles discloses a system with a pole (12) that has a first end and second end, with a sign (13) attached to the first end of the pole, and a mounting structure (10) attached to the second end. In addition to supporting a sign, Knowles discloses the system as usable with volleyball nets and basketball goals (see col. 2 lines 1-9). It would have been obvious to one of ordinary skill in the art at the time of the present invention to have substituted a basketball goal or volleyball net, as taught by Knowles, for the sign or marker taught by Hughes, as a substitution well known in the art to provide a secure structure for a basketball or volleyball pole.

Response to Arguments

Applicant's arguments filed April 3, 2007 have been fully considered but they are not persuasive. Applicant first argues that there is no disclosure by Hughes that the base plate is configured to be mounted in the ground. However, as noted above, Hughes is designed to be attached to a roadway and if the portion of the roadway is recessed in the ground, the sleeve will be mounted in the ground. The claim only

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requires that the sleeve be "configured" to be mounted in the ground. Applicant next argues that the locking wedges 61 do not touch the marker shaft 29. The Examiner agrees, but Applicant's claim does not require that they touch. Only that they be attached. Two objects can be attached to each other by an intermediate structure and not actually touch. Finally, Hughes does not suggest that the flexible element 27 may be positioned above the locking wedges 61. The Examiner disagrees, as figure 2 shows the flexible element above the bracket 61. The fact that central portion 47 is a portion of flexible element 27 doesn't mean that the top portion can't be mounted above bracket 61.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (571) 272-6819. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3600. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

/SMM/

Steven M. Marsh

June 6, 2007

Kimberly Word
Primary Examiner
TC 3600